

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

UNITED STATES OF AMERICA)	CRIMINAL ACTION NO.: 3:19-cr-00299-JFA
)	
v.)	
)	
ANDREW CHMIEL)	
ADVANTAGE ORTHOPEDIC)	
SYSTEMS, INC.)	
DO DELIVERY)	
a/k/a "Doctor Order Delivery")	
PAIN CENTER, LLC)	
)	

ORDER FOR INTERLOCUTORY SALE OF PERSONAL PROPERTY

THIS MATTER is before the court on the government's motion for an order authorizing the immediate interlocutory sale of the below-listed vehicles subject to final forfeiture in this criminal case:

- (a) 2005 Ferrari 430 Spyder
VIN: ZFFEW59A250144753
Asset ID: 19-FBI-004437

- (b) 2016 Mercedes
VIN: WDCYC3KF8GX251261
Asset ID: 19-FBI-004439

- (c) 2018 Tomb Emerge E 4LE
VIN: 4C9TE4836JF407168
Asset ID: 19-FBI-004441

The vehicles are subject to criminal forfeiture pending a final order of forfeiture, and in the meantime, they are incurring substantial storage costs and the increasing risk of depreciation in value.

As detailed in the motion, Defendant Andrew Chmiel and Defendant Companies agreed to forfeiture of the subject vehicles in their written plea agreements. (Docket

Entries 78, 102). Additionally, Defendant Andrew Chmiel and Defendant Companies consented to the government's motion for a Preliminary Order of Forfeiture in their Notice of Consent. (Docket Entry 134). Subsequently, a Preliminary Order of Forfeiture as to the subject vehicles was issued and filed with this court. (Docket Entry 135).

Upon sentencing, the government anticipates that the court will order Defendant Andrew Chmiel and Defendant Companies to pay a significant amount of restitution to the victims in this case. Following the entry of a Final Order of Forfeiture, the government has the option to apply the net proceeds of forfeited assets to the outstanding restitution balance. The increasing storage fees and depreciation in value of the subject vehicles potentially reduce the amount of net proceeds available to the victims. If the subject vehicles are not sold within approximately thirty days, additional storage costs will be incurred.

Federal Rule of Criminal Procedure 32.2 provides that, "[a]t any time before entry of a final forfeiture order, the court, in accordance with Supplemental Rule G(7) of the Federal Rules of Civil Procedure, may order the interlocutory sale of property alleged to be forfeitable." Fed. R. Crim. P. 32.2(b)(7). Rule G(7) provides:

On motion by a party or a person having custody of the property, the court may order all or part of the property sold if . . . (A) the property is perishable or at risk of deterioration, decay, or injury by being detained in custody pending the action; (B) the expense of keeping the property is excessive or is disproportionate to its fair market value; (C) the property is subject to a mortgage or to taxes on which the owner is in default; or (D) the court finds other good cause.

Fed. R. Civ. P. Supp. R. G(7)(b)(i).

The court finds that the increasing storages costs for the subject vehicles and the risk of depreciation in value are sufficient under the rule as factors supporting an interlocutory sale.


IT IS THEREFORE ORDERED, pursuant to Fed. R. Crim. P. 32.2(b)(7) and Rule G(7) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, that the United States may sell, by commercially feasible means, the below-listed vehicles:

- (a) 2005 Ferrari 430 Spyder
VIN: ZFFEW59A250144753
Asset ID: 19-FBI-004437
- (b) 2016 Mercedes
VIN: WDCYC3KF8GX251261
Asset ID: 19-FBI-004439
- (c) 2018 Tomb Emerge E 4LE
VIN: 4C9TE4836JF407168
Asset ID: 19-FBI-004441

IT IS FURTHER ORDERED that the United States Marshals Service shall deduct its expenses related to the custody, maintenance and sale of the subject vehicles and shall deposit the remaining sale proceeds into an interest-bearing account pending further order(s) of this court.

IT IS FURTHER ORDERED that the government may, in its sole discretion, reject any offer to purchase any asset subject to this Order where it determines that the offer is being made by, or on behalf of, a person involved in the criminal activity alleged as the basis for forfeiture.

IT IS SO ORDERED.



JOSEPH F. ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

May 24, 2023
Columbia, South Carolina